

VZCZCXRO4321  
RR RUEHCHI RUEHDT RUEHHM RUEHNH  
DE RUEHBK #2282/01 1132330  
ZNR UUUUU ZZH  
R 232330Z APR 07  
FM AMEMBASSY BANGKOK  
TO RUEHC/SECSTATE WASHDC 6413  
RUCNASE/ASEAN MEMBER COLLECTIVE  
RUCPDOG/USDOC WASHINGTON DC  
RUEAUSA/DEPT OF HHS WASHINGTON DC

UNCLAS SECTION 01 OF 02 BANGKOK 002282

SIPDIS

SENSITIVE

SIPDIS

STATE PASS USTR FOR B. WEISEL, C. WILSON  
STATE PASS USPTO  
HHS/OHGA FOR AMAR BHAT  
USDOC FOR JKELLY

E.O. 12958:N/A

TAGS: [ECON](#) [ETRD](#) [KIPR](#) [TBIO](#) [TH](#)

SUBJECT: HEALTH MINISTER POSTPONES U.S. TRIP, DEFENDS CL'S

11. Summary: Thailand's Minister of Public Health postponed his planned trip to the U.S. this week, citing medical reasons. Although he will no longer have the opportunity to explain his Ministry's actions on compulsory licenses before the USG Special 301 decision is issued, he remains enthusiastic about defending his policies in Washington. In a meeting with the Ambassador, the Minister stepped back from his previous confrontational approach with the pharmaceutical industry, insisting that compulsory licenses had not technically been implemented and that his Ministry was willing to continue negotiations with individual companies. End Summary.

12. In a meeting scheduled to discuss the Minister's anticipated trip to the U.S., Minister of Public Health Mongkol na Songkhla informed Ambassador that he was forced to postpone the visit due to medical reasons. Mongkol explained that the previous Friday he had been diagnosed with a blocked artery and doctors had advised him against air travel. He suggested postponing the trip to May 21-22. The new dates would leave the Minister unable to explain his policy on issuing compulsory licenses (CL) on pharmaceutical products before the USG issues a determination of Thailand's protection of intellectual property rights as part of the annual Special 301 process, the ostensible reason behind the visit. Nevertheless, the Minister remained interested in visiting the U.S. to explain and defend the Ministry's decisions.

13. The Ambassador recommended a later meeting to discuss a rescheduled visit, but took the opportunity to press the USG position on CLs. The Ambassador explained that the USG did not contest the RTG's right to issue a compulsory license in a manner consistent with WTO rules, but advised consultation with companies to the extent possible prior to issuing any future CLs. He continued that investors were changing their perception of the investment climate in Thailand; the RTG had recently undertaken controversial decisions such as changes to the Foreign Business Act and the CLs, and with limited information investors were concluding that Thailand was becoming less friendly to foreign institutions. The Ambassador stressed that an appropriate balance needed to be struck between providing pharmaceutical companies a return on their investment to encourage continued innovation, and the need to provide access to essential drugs. Mongkol said his Ministry had laid out the facts on the issue in an 80-page white paper and was confident that anyone with a clear understanding of the facts would support the Ministry's actions.

14. The Ambassador referred to an earlier conversation with PM Surayud wherein the Prime Minister pledged that there would be no future compulsory licenses. Dr. Suwit Wibulpolprasert, health advisor to the Minister, said that there had been a misunderstanding regarding the Ministry's actions. Suwit claimed the Ministry had

only announced the intention to issue a compulsory license, and should not be confused with the actual implementation of the license. The Ministry had deliberately left time for negotiation with companies before bringing in generic versions of the drugs in question. Although limited stocks of the antiretroviral efavirenz had forced the Ministry to move quickly on a compulsory license for that drug (and Suwit conceded that license was a done deal), they had ample stocks of the other two targets of compulsory licenses and were willing to continue negotiations before actually implementing the licenses. (Note: Suwit's claims do not jibe with earlier RTG statements on CLs. Others involved in the decision insisted at the time that they had issued the licenses and did not foresee further negotiations.)

15. In a brief press interview after the meeting, Mongkol responded to a question on the USG's Special 301 review and said that he was not concerned about an adverse decision for Thailand. He considered the U.S. a nation of laws and since the RTG had closely followed the law on issuing the CLs it should not affect the review. The Ambassador told the press that the Special 301 review was continuing, and while the USG would consider the compulsory license issue, the decision would not be made on that issue alone. He continued that the USG position was to encourage negotiations with companies to strike a balance between encouraging innovation and providing access to essential medicines.

Rescheduling the trip  
-----

16. The Minister suggested that his trip to the U.S. be rescheduled for May 21-22. He explained that he planned to travel to Geneva for WHO Assembly meetings from May 14-18 and would like to continue on to Washington for meetings the following week. He hoped to be able to meet with HHS Secretary Leavitt during the Geneva meetings if the

BANGKOK 00002282 002 OF 002

Secretary plans to attend.

SIPDIS

17. In an aside after the meeting, Dr. Suwit relayed that Abbott had proposed a new price for their antiretroviral Kaletra of USD 1000 per year, approximately half the previous price offered in Thailand. However, an Indian generic manufacturer had already countered the offer and had proposed a price of USD 850, undercutting Abbott's new offer.

18. Comment: Minister Mongkol seemed to be stepping back from his earlier confrontational approach, taking pains to clarify that the Ministry had not technically issued compulsory licenses and negotiations with pharmaceutical companies would continue. However, he has not lost any of his ardor for CLs. He continued to defend the Ministry's decisions and believed that an honest examination of the facts of the case will persuade USG policymakers of the correctness of his acts. End Comment.